

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

LARRY SAUVE,)	
)	
Petitioner)	
)	
v.)	Civil No. 07-125-P-S
)	
MARK DION, Sheriff)	
)	
Respondent)	

Order Staying Habeas Petition

Larry Sauve has filed a 28 U.S.C. § 2254 form petition claiming that the bail set by the State of Maine after his arrest for manslaughter is excessive.¹ The State has filed a motion to stay the petition. (Docket No. 9.)² In this motion the State explains that Sauve is not "in custody" under the challenged bail determination because a state court judge has determined that he is not competent to stand trial and Sauve has been committed to the custody of the Commissioner of the Maine Department of Health and Human Services for evaluation. It is the State's recommendation that, in the interest of judicial economy, this court stay consideration of Sauve's habeas petition until the state court reconsiders its competency determination.

Sauve does object to this proposal claiming he is competent to stand trial and that this court does not have the authority to stay the proceeding. For the latter proposition Sauve cites to 28 U.S.C. § 2283, which provides: "A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by

¹ As part of this assertion, Sauve indicates that he believes that the State's case against him is thin, based on three conflicting statements by one witness who is not believable.

² The State indicates that Sauve should have actually framed his petition as one brought pursuant to 28 U.S.C. § 2241.

Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." 28 U.S.C. § 2283 (emphasis added). However, the proceeding in question is a federal proceeding and this court has the authority to stay the action.

As it would not be possible for this court to provide Sauve with any relief on the ground raised in his pending habeas petition given his current custody status, I conclude that the best solution is to stay this proceeding. This stay will not be in effect indefinitely; the State is directed to provide the court with a status report on Sauve's custody status by no later than November 30, 2007.

CERTIFICATE

Any objections to this Order shall be filed in accordance with Fed.R.Civ. P. 72.

So Ordered.

September 26, 2007

/s/ Margaret J. Kravchuk
U.S. Magistrate Judge